S.B. Civil Misc. Appeal No.550/2004

Union of India and others.
vs.
M/s. Jagdish Prashad Ramavtar Pvt. Ltd. and another.

Date : 1.8.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. VK Mathur, for the appellants.
Ms. Rekha Borana, for the respondent no.1.

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At the request of learned counsel for the parties, this appeal is heard finally and decided.

A dispute was raised by the respondent no.1 and thereafter, after serving notice upon the appellants, submitted petition under Section 20 of the Arbitration Act for appointment of Arbitrator. Said application was allowed by learned Additional District Judge No.2, Sri Ganganagar vide order dated 9.3.2004. Hence, this appeal.

Learned counsel for the appellants submitted that the respondent no.1 submitted application for appointment of Arbitrator after inordinate delay of seven years, therefore, the court below could not have appointed Arbitrator on application which was barred by time. It is also submitted that after initiation of the proceedings in Court by the respondent no.1, the appellants have appointed

Arbitrator, therefore, the Court should not have appointed another arbitrator. Learned counsel for the appellants also submits that in view of the fact that the respondent no.1 itself has raised dispute after inordinate delay, the appellants' appointing arbitrator during the course of proceedings can also be treated as regular appointment of arbitrator.

I have considered the submissions of learned counsel for the appellants and perused the facts of the case.

So far as arbitration agreement is concerned, that has not been disputed. According to learned counsel for the appellants himself, the arbitrator has been given authority to decide the question of limitation. In view of the above fact when the arbitrator will decide the question of limitation, this Court is not inclined to interfere in the impugned order passed by the court below on this ground alone.

So far as appointment of arbitrator by the court below is concerned, that has been done when the appellants have failed to appoint arbitrator after notice, therefore, there is no illegality in the impugned order.

Consequently, this appeal having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya